IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9886 OF 2004

1. M/s.Mihir Developers & anr. Petitioners
vs.
1. State Bank of Bikaner & Jaipur & ors. Respondents

Mr.V.G. Mehta for the petitioner.

Mr.V.K.Sharma, Chief Manager of respondent-Bank present.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 3rd May 2005

P.C.

When the matter first came up before us on 14th March 2005, the advocates for the parties informed us that the negotiations for mutual settlement between the parties are going on and at their request, the matter was adjourned to 04.04.4005.

2. On 04.04.2005 we were informed that the talks of settlement were still going on and, accordingly, we adjourned the matter for four weeks.

3. Today Mr.V.G.Mehta, the learned counsel for the petitioners at the outset handed in the offer of settlement dated 7th February 2005 made by the petitioners to the first respondent-Bank and their response thereto, collectively marked "X" for

identification purposes.

4. The offer of settlement sent by the petitioners to the first respondent-Bank is as under:

> "That claim against us will be finally settled for Rs.11,00,000/- (Rupees Eleven lacs only) to be paid as under:
>
> (1) Rs.55,000/- within one week from the date of settlement.
>
> (2) Rs.10,45,000/- (Rupees Ten lacs Fourty Five Thousand only) within one year after acceptance of Rs.55,000/- (Rupees Fifty Five Thousand only) as above.
>
> (3) We shall pay simple interest @ 10.75% after three inst. months, on the balance of unpaid amount of the said sum of Rs.10,45,000/- (Rupees Ten lacs Fourty Five Thousand only).
>
> (4) The Settlement shall be recorded in the present pending proceeding in High Court, Writ Petition No.9886 of 2004 as well as O.A. No.182 of 2003 (including R.P.No.86 of 2004). You will get the same prepared by your Ld.Advocates.
>
> (5) The property at village - Tukwada Dist. Valsad, Gujarat State shall continue to remain mortgaged with your bank. We will sell the said property only with prior written in time has to your bank.
>
> . We will try to clear dues by disposing our property even of an early date. Please accept and our firm the proposal with suitable modification as you deem proper. You will be good enough to finalise the settlement at an early date to enable to send our pay order of Rs.55,000/-."

5. By communication dated 2nd April 2005, the first respondent-Bank approved the compromise on the following terms and conditions:

1. The validity of compromise amount of Rs.11.00 lacs is six month from the date of compromise approval.

2. You have to deposit Rs.55000/- immediately on receipt of this letter.

3. Simple interest will be charged @ 10.75% on the balance amount if the compromise amount is paid after 30.04.2005.

If you fail to make the payment as per the agreed terms and condition the bank will be entitled to recover the amount in full with interest on the contracted rate along with all charges/expenses etc. from you/guarantors."

6. In furtherance to the approval of the compromise by the bank on the terms and conditions set out in the communication dated 2nd April 2005, Mr.V.G.Mehta handed in cheque bearing No.213628 in the sum of Rs.55,000/- payable to SBBJ-Mihir Developers drawn on the Kapol Cooperative Bank Ltd. Mr.V.K.Sharma, Chief Manager of the first respondent-Bank, who is present in the Court, accepted the said cheque.

7. Since the parties have settled their dispute amicably, the writ petition is disposed of in terms of the compromise set out in the communication dated 2nd April 2005 sent by the first respondent-Bank to the petitioners. It is clarified that the entire due amount of Rs.11 lacs minus Rs.55,000/-, the payment of which has been made today by the abovereferred cheque shall be made within three months from today. The petitioners

shall also be liable to pay simple interest at the rate of 10.75% per annum. In default, the first respondent-Bank shall be entitled to recover the amount in full with interest on the contracted rate along with all charges/expenses from the petitioners as well as their guarantors.

8. Writ petition is disposed of accordingly.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)